

Notice of Allowability

Application No.

09/221,099

Examiner

Pierre E. Elisca

Applicant(s)

WALKER ET AL.

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to RCE filed on 10/24/2006.
2. ☒ The allowed claim(s) is/are 17-26, 80, 86 and 87.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.


THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☒ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


PIERRE EDDY ELISCA
PRIMARY EXAMINER
TECHNOLOGY CENTER 3600

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REASONS FOR ALLOWANCE

1. IDS filed on 10/24/2006 have been considered.

2. This is an Examiner's statement of reasons for allowance. The closest prior art Deaton et al U.S. Pat. No. 6,684,195 discloses a point of sale terminal that provides customer promotion.

JP 2003150769, Oshima Shigeki discloses a trial product public offering production system by which the application of an idea is promoted concerning a trial product which is different from an in-house product.

However, neither Deaton nor Oshima discloses the recited feature:

As per claim 17 "upon receipt of information regarding said substitute product from said remote server, offering said substitute product to said consumer before the transaction session terminates, consummating a sale of said original product if at least one of (a) no information regarding said substitute product is received from said remote server, and (b) said consumer declines said offering, and consummating a sale of said substitute product upon acceptance by said consumer of said offering".

As per claim 80 " means for transmitting an offer of said substitute product to said consumer before the transaction session terminates, means for consummating a sale of said original product if at least one of (a) no information regarding said substitute product is received from said remote server, and (b) said consumer declines said

offering, and means for consummating a sale of said substitute product upon acceptance by said consumer of said offering”.

As per claims 86 and 87 “ code transmitting an offer of said substitute product to said consumer before the transaction session terminates, code for consummating a sale of said original product if at least one of (a) no information regarding said substitute product is received from said remote server, and (b) said consumer declines said offering, and means for consummating a sale of said substitute product upon acceptance by said consumer of said offering”.


Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre E. Elisca whose telephone number is 571 272 6706. The examiner can normally be reached on 6:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fischer can be reached on 571 272 6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


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